

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: LEVEL 3 COMMUNICATIONS, LLC	DOCKET NOS. TF-02-54 TF-02-55 (TCU-99-1)
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ORDER REJECTING TARIFFS

(Issued February 25, 2002)

On February 2, 2002, Level 3 Communications, LLC (Level 3), filed with the Utilities Board (Board) a proposed access tariff, identified as TF-02-54, and a proposed local exchange tariff, identified as TF-02-55. The Board has reviewed the proposed tariffs and will reject them.

The proposed tariffs do not include any business or residential local exchange service rates or access charges associated with those services. When asked about this, Level 3 indicated that it did not plan to offer business or residential local exchange service at this time. Instead, it proposes only to provide dial-up access service to Internet service providers (ISPs).

The Federal Communications Commission (FCC) has determined that dial-up calls to ISPs are jurisdictionally interstate calls, not intrastate.¹ As such, the Board

¹ See Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Intercarrier Compensation for ISP-Bound Traffic, "Order On Remand And Report And Order," CC Docket Nos. 99-98, 99-68, FCC 01-131 (rel. April 27, 2001) (the "ISP Remand Order").

has no direct jurisdiction over calls to ISPs.² The Board does not generally allow inclusion of non-jurisdictional services in intrastate tariffs. Because Level 3's proposed tariffs consist entirely of non-jurisdictional services, there is nothing in them that is appropriately included in a local exchange service tariff or a local exchange access tariff. The Board will therefore reject the proposed tariffs.

IT IS THEREFORE ORDERED:

The proposed access tariff and proposed local exchange tariff filed by Level 3 Communications, LLC, on February 4, 2002, identified as Docket Nos. TF-02-54 and TF-02-55, respectively, are rejected.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

Dated at Des Moines, Iowa, this 25th day of February, 2002.

² In the ISP Remand Order, the FCC declared that ISPs may purchase ordinary business lines for carrying dial-up data traffic, pursuant to a local exchange carrier's intrastate tariff. See also General Communications Inc. v. Alaska Communications Systems Holdings, Inc., et al, 2001 WL 58932 (FCC 2001). However, this requires that the local exchange carrier (Level 3, in this case) offer ordinary business line service, which is not a part of Level 3's proposed tariff.